

will not be offered reasonably comparable employment shall be considered to be voluntarily separated. Section 550.706(a) shall be applied, as appropriate, to any employee who resigns after receiving such notice.

(d) Except as otherwise provided by paragraphs (a) through (c) of this section, the provisions of this subpart remain applicable to Panama Canal Commission employees.

[62 FR 49127, Sept. 19, 1997]

### Subpart H—Back Pay

AUTHORITY: 5 U.S.C. 5596(c); Pub. L. 100–202, 101 Stat. 1329.

SOURCE: 46 FR 58275, Dec. 1, 1981, unless otherwise noted.

#### § 550.801 Applicability.

(a) This subpart contains regulations of the Office of Personnel Management to carry out section 5596 of title 5, United States Code, which authorizes the payment of back pay, interest, and reasonable attorney fees for the purpose of making an employee financially whole (to the extent possible) when, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance), the employee is found by an appropriate authority to have been affected by an unjustified or unwarranted personnel action that resulted in the withdrawal, reduction, or denial of all or part of the pay, allowances, and differentials otherwise due to the employee. This subpart should be read together with this section of law.

(b) This subpart does not apply to any reclassification action.

[46 FR 58275, Dec. 1, 1981, as amended at 53 FR 18072, May 20, 1988]

#### § 550.802 Coverage.

(a) Except as provided in paragraph (b) of this section, this subpart applies to employees, as defined in § 550.803 of this subpart.

(b) This subpart does not apply to—

- (1) Employees of the government of the District of Columbia; and
- (2) Employees of the Tennessee Valley Authority.

#### § 550.803 Definitions.

In this subpart:

*Agency* has the meaning given that term in section 5596(a) of title 5, United States Code.

*Appropriate authority* means an entity having authority in the case at hand to correct or direct the correction of an unjustified or unwarranted personnel action, including (a) a court, (b) the Comptroller General of the United States, (c) the Office of Personnel Management, (d) the Merit Systems Protection Board, (e) the Equal Employment Opportunity Commission, (f) the Federal Labor Relations Authority and its General Counsel, (g) the Foreign Service Labor Relations Board, (h) the Foreign Service Grievance Board, (i) an arbitrator in a binding arbitration case, and (j) the head of the employing agency or another official of the employing agency to whom such authority is delegated.

*Collective bargaining agreement* has the meaning given that term in section 7103(a)(8) of title 5, United States Code, and (with respect to members of the Foreign Service) in section 1002 of the Foreign Service Act of 1980 (22 U.S.C. 4102(4)).

*Employee* means an employee or former employee of an agency.

*Grievance* has the meaning given that term in section 7103(a)(9) of title 5, United States Code, and (with respect to members of the Foreign Service) in section 1101 of the Foreign Service Act of 1980 (22 U.S.C. 4131). Such a grievance includes a grievance processed under an agency administrative grievance system, if applicable.

*Pay, allowances, and differentials* means monetary and employment benefits to which an employee is entitled by statute or regulation by virtue of the performance of a Federal function.

*Unfair labor practice* means an unfair labor practice described in section 7116 of title 5, United States Code, and (with respect to members of the Foreign Service) in section 1015 of the Foreign Service Act of 1980 (22 U.S.C. 4115).

*Unjustified or unwarranted personnel action* means an act of commission or an act of omission (i.e., failure to take an action or confer a benefit) that an appropriate authority subsequently determines, on the basis of substantive or